[President.]

So far as the motion for the adjournment of the House is concerned, it is sponsored by Mr. Kuruvilla and is in the following terms :—

> "I beg to move that the House be adjourned for the purpose of discussing a definite matter of urgent public importance, namely the deep interest felt by the public in so far as the formation of the new Debt Redemption Committee might delay the introduction of the necessary legislation regarding Agricultural Debt Relief."

Now, the honourable member Mr. Kuruvilla is sufficiently experienced to know that, generally speaking, all motions of adjournment are handed in on the opening day and therefore, technically, it may be said to be out of order, but as the matter, evidently is exercising the minds of certain persons and as this is a matter to which Government attach great importance, I am willing to stretch a point and allow discussion on the matter so that the intensions and the views of the Government might be made adequately public, and for that purpose, I declare the motion to be in order. I fix the conclusion of the proceedings of today for the discussion of that matter.

LEGISLATIVE BUSINESS.

THE TRAVANCORE TRANSFERS AND BEQUESTS TO UNBORN PERSONS BILL.

Mr. G. Narayana Aiyar : Sir, I beg to present the report of the Select Committee on the Travancore Transfers and Bequests to Unborn Persons Bill, and move that the Bill as reported be taken into consideration.

Mr. Kochickal P. Balakrishnan Tampi (*Karunagapally, Kartikapally and Ambalapuzha* cum *Shertalla*) : I second it.

Mr. M. K. Anantasiva Aiyar (*Nominated*) : Sir, I beg to move that the Bill be recommitted to the Select Committee. This is a very important piece of legislation that vitally affects almost all the communities in the State. I do not understand why people following the Mahommedan Law of inheritance are alone exempted from the provisions of the Bill. I cannot see why the law which could not be advantageous to people following the Mahommedan Law of inheritance could be advantageous to people following any other law of inheritance.

Further it is a very important piece of legislation and ever so many mistakes could be committed by placing restrictions in the matter of bequeathing property to unborn persons. I think that the Committee have not gone into all these aspects and I would therefore move that the Bill be recommitted.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. Kottur Kunjukrishna Pillai (*Quilon cum Kunnathur*): I second the motion for re-committal. Sir, it has been found in the course of the consideration of the Bill, regarding the question of application of this measure to various communities, the Mahommedans came forward and objected on the ground that it affects their religious principles and as such no legislation should be passed like this.

President: Chapter II of the Transfer of Property Act does not apply to Mahommedans in British India, is it not?

Mr. Kottur Kunjukrishna Pillai: Yes Sir. I found there are other communities who also take objection to this legislation such as the Brahmin community.

President: Do they?

Mr. Kottur Kunjukrishna Pillai: Brahmin community as represented by Mr. Ananthasiva Aiyar. He has put it forward that they have a strong objection to this measure, and others also, who take a different view with regard to this matter consider that this Bill is a mere imitation of the British Indian Legislation and it is not always advantageous to copy legislation from British India. Any way I think that further information will be collected regarding the communities which have got objection to this measure. I hope there is nothing to be lost, on the other hand there is every thing to be gained by the committee going into the measure and ascertaining the opinion of the people who have got real objection to this measure and then formulating a bill on the lines of the opinions expressed. Therefore I have great pleasure in seconding the motion for recommittal.

Mr. G. Narayana Aiyar: I oppose the motion for recommittal. When the Bill was under discussion in the Select Committee a doubt was entertained whether there was not serious objection to the Muhammadans being bound by the Bill. A Muhammadan member of the Select Committee who is now here, raised the objection that the Bill was opposed to the principles of Koran. A number of Muhammadans and Muhammadan Associations were asked to express their views before the Committee and they were of the opinion that the principles of Koran were opposed to the Bill. It was after a full discussion of all the opinions that we received and after considering similar provisions in other legislation also in British India that the Select Committee provided for the exemption of Muhammadans. Further, this Bill is word for word copy of the recent British Indian Enactment and as such I object to the recommittal.

President: Excepting one clause.

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Mr. G. Narayana Aiyar : Yes. Sir.

Mr. Muhammad Ismail *(Nominated)*: When the Bill was published to elicit public opinion, the Muslim community took objection to it on the ground that it was opposed to the principles of Muhammadan Law. Therefore, I objected to the Bill and opinions from Muslim leaders and Muslim Associations were collected from all quarters of Travancore. Moreover, Muslims were invited to appear before the Select Committee and give evidence. They have done accordingly.

President : To what provision does the Muslim community object?

Mr. Muhammed Ismail : The Muhammadan Law provides necessary safeguards for the transfers of properties contemplated in the Bill. Therefore, we never felt, till now any grievance. The Bill itself contemplates to remove certain disabilities concerning transfers among the people of Travancore.

President : This Bill imposes new disabilities; is it not?

Mr. Muhammed Ismail : Yes Sir, it does. It is meant to remove disabilities. If there is no disabilty to a particular community I do not know how it is necessary to remove imaginary disabilities. We never felt any disability and we never wanted such a Bill. Therefore it is that the Muslim community is exempted from the operation of this law by the Select Committee. If any other community wants such an exemption I am only willing that such a community should also be given exemption. Therefore, if the recommittal is necessary for ascertaining the opinion of other communities, I have got the least objection to that. As far as I am concerned I can only say that the Muslim community does not want this Bill and that it will oppose it.

Mr. Kochikkal P. Balakrishnan Tampi : Sir, I must oppose the re-committal for one thing.

Mr. Kottur Kunjukrishna Pillai : May I know whether the motion is not for sending the Bill back to the same Select Committee.

Mr. Kochikkal P. Balakrishnan Tampi: Yes. This Bill does not introduce anything new. It is only a legal embodiment of the principles that have already been accepted by the courts and that have also been accepted by the British Indian Legislature. There is no question of any personal law involved in this Bill and there is no question of the Mahommedan or any other community being frightened by any innovation that is sought to be introduced by this Bill. These are very simple, inoccuous provisions of the

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Transfer of Property Act. Moreover, all these aspects have been very carefully considered by the Select Committee. When the Mahomedans objected to it, most of the members of the Select Committee were averse to exclude them; but as a matter of concession to their sentiments we excluded them because under the Mahomedan Law also gift to unborn children is accepted although under the technical cover of wakf.

There is also another point. In modern days the tendency is not to multiply personal laws as far as possible and whenever there is no conflict with religious principles it has been the attempt of all legislation to codify the law. In that way we wanted to include also the Mahomedans but they thought that we were going to impose a law on them, that something unpleasant was compelled to be swallowed by them and out of deference to their sentiments we excluded them from the purview of the Bill. As far as the Brahmins are concerned, I may plead the old argument, that when we are envisaging greater things in the political future of India it is but right that our law also should be made uniform with the law that is prevailing outside Travancore so that the law that applies to the people here might not be different from the law that applies to their relations on the other side of the ghats. Anyway, the principles of this Bill have been accepted and acted upon, and so far, there has been absolutely no complaint from any considerable section of the people in British India against the provisions and there has been an insistent demand on the part of the people in this land also for the codification of this law. Therefore, there is no reason why we should recommit the Bill to the same Select Committee. When there is absolutely no necessity for recommitting the Bill to the Select Committee, to create a precedent by sending it back is not also conducive to the future of this Council. For these reasons, I oppose the proposal that the Bill must be sent back to the Select Committee.

Mr. M. Govindan (*Nominated*): Sir, I also oppose the motion for recommittal. The Bill was duly published. No community represented that the Bill was injurious and should not be enacted till now, except perhaps the Mahomedan community who thought that their civil law which bound them was connected indissolubly with their religion. The same idea must have influenced the British Indian legislators to exempt them from the operation of Chapter II of the Transfer of Property Act also.

That apart, among the communities in Travancore, one of the most articulate sections is the Brahmin community. Had they any objection to the Bill, I am sure that they would have voiced it in time. The fact is, as has been observed by Mr. Balakrishnan

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. M. Govindan]

Tampi, this is only a piece of legislation for removing certain disabilities. There is no compulsion in the Bill. It is only optional. If a community does not want that such bequests should be given, of course it is open to that community not to give bequests to unborn persons.

President: Supposing a person bequests his property in favour of his grandson who is not born, it is prevented by this Bill, it is not ?

Mr. M. Govindan: Yes.

President: Therefore, it is not removing a disability but imposing a disability.

Mr. M. Govindan: Generally, the Bill is for the removal of disabilities, and certain restrictions which accepted elsewhere are accepted by us also in this Bill.

Another very important thing to be considered is this—that also seems to have been given expression to by my friend Mr. Balakrishnan Tampi. We on this side of the ghats cannot be an isolated community which has nothing to do with the community on the other side of the ghats. Hereafter it is impossible in the case of the Brahmin community and other communities similarly circumstanced. They have got relations all over Southern India, and some even in Northern India. As such, it is all important that we should have the same piece of legislation regulating transfers in Travancore as well as in British India. So, everything considered it will be very inexpedient if we recommit the Bill again to the Select Committee.

Mr. Puthupally S. Krishna Pillai: (*Legal Remembrancer*): Sir, I wish to speak a few words on this motion. The law relating to bequests in favour of unborn persons is now governed by certain decisions of our High Court. Persons governed by the Hindu Law have been found to be disqualified to make any bequests in favour of unborn persons and for that purpose our High Court have relied on the Tagore case. Very recently a case came up where a gift was made by the intending husband in favour of his betrothed and in the gift deed it was provided that the gift would enure to the benefit of the children that may be born to them. The donee hypothecated the properties, but the children wanted to defeat the hypothecation and brought a suit for a declaration that under the terms of the gift deed by birth they acquired a right over the properties. It was held by the High Court that the parties being governed by the Hindu Law should be governed by that Law and that as under the Hindu Law as decided in the Tagore case a bequest in favour of unborn persons was invalid the plaintiffs in that case had not acquired any interest in the proper-

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ties, the subject matter of the gift in that case. That is in regard to persons governed by Hindu Law. But in regard to persons governed by the Marumakkathayam system of inheritance, the Nairs, the Ezhavas, the Vellalas and other people, the rule is that a bequest made in favour of unborn persons is valid. They are under no disability at all and a bequest made by the father in favour of his wife, it has been held in law, is a bequest which enures to the benefit of all the children and before the Nair Regulation came into force it was held that the intention of the testator was that it must enure to the benefit not only of the wife, and the children born of that woman but also of their descendants constituting a sub-tarwad. That was the principle that was adopted in regard to gifts made by a marumakkathayee father in favour of his wife or wife and children. That, I am sure, is the law which prevails not only among the Nairs, but amongst the Ezhavas also. Therefore, the right to make a bequest in favour of unborn persons was an unrestricted right and even to-day without any statutory restriction imposed unpon this right, it will be the right of every person governed by the Ezhava or the Nair Regulation to make a bequest in favour not only of his unborn son but even in favour of his unborn grandson.

President : Are not the Nairs governed by the Hindu Law in so far as the Marumakkathayam Law does not prescribe any special rule ?

Mr. Puthupally S. Krishna Pillai: Sir, it has been held uniformly that the Nairs in respect of such donations are governed by the custom peculiar to the community and the long established usage and therefore there is a uniform current of decisions which lay down the rule.

President : In other words, you say that the Hindu Law does not apply to Nairs in regard to bequests.

Mr. Puthupalli S. Krishna Pillai : Yes, Sir. That is, in respect of persons who follow the Marumakkathayam system of inheritance. That is the reason, Sir, why I say that so far as the communities who follow the marumakkathayam system of inheritance are concerned, there is no restriction imposed on the right to make a bequest in favour of unborn children. This bill, no doubt, confers a benefit or tries to remove a disability so far as one community is concerned, that is the community that is governed by the Hindu Law. As I pointed out, under the Hindu Law a person is prevented from making a bequest in favour of unborn persons because under the Hindu Law the person in whose favour the bequest is made must be a person in existence so that it may vest in him. But this Bill provides that even though that privilege is to

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. Puthupalli S. Krishna Pillai]

be granted to such communities, that privilege can be availed of only subject to certain restrictions. Those restrictions are not provided for in the law of this land They are borrowed from the Transfer of Property Act and the Indian Succession Act. Honourable members know that these two statutes are not in force in the State and that no attempt has so far been made to legislate on the lines of these two Acts. The reason why the question of the Transfer of Property Act for Travancore has not yet been definitely taken up for consideration is that the custom followed in the State in respect of various matters is at variance with the several provisions contained in the Transfer of Property Act. For instance, transfers inter vivos can be made only subject to certain restrictions and limitations under the Transfer of Property Act, when there are no such restrictions or limitations in regard to transfers in this State. It is open to any person to say that no departure should be made from the principle guiding him or the principle that was being applied to him. As a Marumakkathayee governed by the Nair Regulation, I may be willing to or desirous of executing a gift in favour of not only my wife and children but also of my grandsons and great-grandsons. Under the present law there is no restriction imposed on my right to execute such a gift.

Therefore, if I want to make a gift the benefit of which will enure to my wife and children and great grand-children, say for four generations, there is no legal objection to executing such a gift. As the law stands, such a course can be adopted by which the descendants in succession can enjoy the property. But when this Bill is passed as it is, it will curtail my liberty in executing such a gift in future. The community which is hitherto enjoying the privilege of executing such gifts is now sought to be imposed with certain restrictions. That is a matter which I think has not been adequately considered. At any rate, that is an aspect which deserves some further attention.

If the Bill had simply stated that by its provisions the disabilities of communities who follow the Hindu Law in respect of bequets made to unborn persons are removed, I could appreciate the position. It is then an attempt made to remove such disabilities. As the Bill stands I find that the restrictions to be imposed seem harder than the privileges conferred. The provisions in the Bill relate to the doctrine of perpetuity. There is no statutory law in Travancore so far as that matter goes. That being so, it is a matter for the consideration of this House whether this Bill, in the form in which it stands, should be further considered by the Select Committee. It was pointed out here that it will not be conducive

LIBRARY ARCHIVES Kerala Legislative Assembly

to the growth of a healthy convention if a Bill reported upon by the Select Committee should be recommitted. But I may say that such recommittals are very rare. In the matter of legislation, an aspect which has been considered in one light and reported upon by the Committee may have to be reconsidered either by the same committee or by a different committee, according to the exigencies of the case. After all, this is a piece of social legislation which seeks to bring about some fundamental change.

Mr. Kochikal P. Balakrishnan Tampi: May I ask whether it is good convention for the President and convener of the Select Committee which has reported on the Bill to propose that the Bill may be sent back to another Select Committee ?

Mr. Puthupally S. Krishna Pillai: Any person may change his opinion at any time, and I do not think that any honourable member who took part in the Committee would be bound down by his views expressed there.

President: But the honourable member is not entitled to say what took place in the Select Committee.

Mr. Puthupally S. Krishna Pillai: No, Sir.

Mr. T. Krishna Pillai: I wish to know whether the Select Committee which has gone into this Bill is not a defunct Body now ?

Mr. Puthupalli S. Krishna Pillai: It cannot be said that a body is defunct, because, the motion if adopted would be a motion for reference back to that Committee. Besides, it cannot be said that it is entirely dead. The Committee has made its report. Honourable members who signed the report are entitled to send up amendments. Therefore, for my part, Sir, I leave the matter to the decision of the House. So far as the Government are concerned, if it is found that the Bill is defective and any aspect deserves further consideration, they will not stand in the way of the Bill being reconsidered. Personally, I think that is an aspect which deserves further consideration.

President: Mr. Balakrishnan Tampi and those who agreed with him were perfectly justified in stressing the importance of not rashly, or in haste recommitting the Bill which has gone through a Select Committee and has received careful attention at the hands of that Committee. It is also a well-known circumstance that it has been the object of this Government to assimilate the laws prevalent in this State with the laws prevalent in British India, for the reason that, especially in commercial transactions and in business affairs, any difference in law or usage is bound to lead to embarrassments and to complications. It is with reference to these considerations that the Legal Remembrancer charged himself with

LIBRARY ARCHIVES Kerala Legislative Assembly

[President]

the duty and the task of bringing forward for consideration various important measures to which the attention of this honourable House was devoted yesterday.

Glancing, however, through this Bill it appeared to me that there were certain aspects of the matter which may be placed before this House in order that they might be considered and the very grave implications of those aspects duly borne in mind. It is always a difficult task to legislate in the matter of personal law, especially where personal law, as in the case of the Hindus, is bound up with so many legal and family usages, and is also bound up to no small extent with various enactments, customs and precepts, partly religious, partly social and partly traditional. It was with advertence to such considerations that the British Indian Legislatures have been very chary of codifying the Hindu Law or codifying the Mahomadan Law as those Legislatures have been more than once called upon to do Therefore, side by side with the multiform activity on the part of the Indian Legislatures in regard to various laws bearing upon contracts, crimes-torts and business transactions and commercial affairs, the Legislature has, so far, excepting where a particular abuse had to be righted or a particular wrong redressed been keeping itself away from the task of codifying personal laws. Now the present is undoubtedly an attempt to codify certain personal laws; and if I have taken upon myself the duty of inviting the attention of this honourable House to certain aspects, it is because I feel that there are certain paramount considerations which should be borne in mind before this House comes to the conclusion as to whether this Bill should be passed in its present form or not.

In the first place, this doctrine of perpetuities, and the restrictions against alienations beyond a certain period are entirely creatures of the English Law, introduced into India, and in entire contradiction to the ancient personal law of India, whether it is the case of the Muslims or Hindus. The Tagore decision when it was propounded, was regarded as a definite departure from this original Hindu Law. And, what was the history of the English Law? I may say that the opinions I am expressing have been held by me very strongly, for over two decades that, I trust, will be regarded as a justification and an excuse, not for the purpose illegitimately forcing an opinion of this House, but in order that this House may consider the points now placed before it, which have not in my opinion received proper attention in India.

England grew up to be wealthy in the 16th, 17th and 18th centuries. The land was held by a few owners of large estates and capital accumulated in a few hands. It was thought necessary to

LIBRARY ARCHIVES Kerala Legislative Assembly

divide up the properties. It was thought necessary that there should be a circulation of properties and that money and property should not be allowed to be aggregated in certain hands. The following is a summary of the English Law in its bearing on the present problem.

The doctrine of Perpetuities is regarded in English Law as an impediment to commerce by preventing wholesome circulation of property and is stated as follows: "that the vesting of property cannot be postponed or the alienation restricted beyond any number of lives in being and 21 years from the death of the surviving life." In other words, this rule requires a limitation whether of an absolute or partial interest necessarily to vest within the period prescribed and if the rule be exceeded, the limitation is supposed to be wholly void.

This rule was rendered necessary on account of the extensions of the doctrine of entail; but, as in the present Bill so under the English Law, ecclesiastical property is not embraced by the Law of Perpetuity and charitable uses are also exempted. Of course, it is well known that perpetuities have been created by Act of Parliament, *e. g.*, the case of the Dukes of Marlborough and Wellington.

Connected with this rule is another rule—the rule against double possibilities, namely, that after an estate has been limited to an unborn person for life, a remainder cannot be limited to any child of that unborn person. The whole of this is connected with the doctrine of Accumulation whose object is to prevent the prospective accumulation of income of real or personal estate, such accumulation being limited to the life of the grantor or 21 years from the death of the grantor or during the minority of any person who shall be living or in the womb on the date of the death of the grantor. Where accumulation is directed otherwise than as prescribed above, such direction is supposed to be null and void. Even under the doctrine the Accumulations Act of 1800 does not extend to any person for payment of the debts of the grantor, and does not apply to heritable property in Scotland. In 1892, an Amending Act was passed restricting accumulations for the purpose of purchase of land only to the period during minority.

The difficulty in England originated with the concentration of property in the hands of a few people. Why that rule should be applied to Travancore where the difficulty arises on the contrary from the dissipation of property and the dispersal of estates and the fragmentation of holdings is not clear.

What is the real difficulty in India? In England there are millionaires to be counted by hundreds. In America there are

LIBRARY ARCHIVES Kerala Legislative Assembly

[President]

millionaires who may perhaps be counted by thousands. In Travancore thanks to the partition legislation which is actively functioning the number of people who have landed property of any extent is very limited. Also the number of real capitalists is very small. If a factory is to be started, if any new business is to be undertaken, there is not one family which can risk one lac of rupees. There is, of course, not to speak of 10 lacs joint stock enterprise. But the difficulties of joint stock enterprises are fairly well known. Now the question is whether in Travancore you have got so much property aggregated in the hands of a few people that it is necessary, as in England and America, to prevent the accumulation of the property and make compulsory distribution of such property at the end of one generation, by legislation. Suppose a person who has got some money wants to accumulate it and wants his grandson to be a wealthy person, or wants to start some venture for the good of the country and for that purpose wants the money to be kept intact and to increase for a period ; then this law will stand against him. If that is what the House wants if it believes that it is better that money should not be allowed to be aggregated, then this law will be justified—not otherwise. If that is the object of the House and that is the object to be worked for, encouraged and legislated for ; then by all means the House may do so. But on the other hand, if the House comes to the conclusion that the industrial and other possibilities are such that the accumulation of property in individuals is a thing to be desired then the passing of this Bill will not be a beneficial step. That is a matter for the House to consider. I felt it my duty to place both aspects of the question for the consideration of the House. Both aspects are defensible a priori. One group of people want rapid industrialisation and the growth of wants and the enhancement of standards of life and they wish that there should be great prosperity at one end of the State even though there may be penury at the other end. Another group may hold that no rich men are needed and that there should be prosperity throughout the State attained by agriculture and subsidiary cottage industries each family earning an income of 20 rupees or even under. It may be held that industrialisation is exploitation of the weak by the strong, the poor by the rich, labour by capital. In this case this and similar bills may serve the purpose of discouraging accumulation of capital and generally bringing about a uniformly low standard of living—plain living perhaps but not inevitably associated with high thinking. The choice is before the House and the country. I thought it was my duty to place that aspect of the matter before the House.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. G. Narayana Aiyar: In the face of the clear exhaustive and interesting elucidation on the subject by the President and the intricacies involved in the same I have no objection for the recommittal of the Bill.

The question that the Bill be recommitted was put and carried.

THE TRAVANCORE KRISHNANVAKA MARUMAKKATHAYEE BILL.

Mr. James Fletcher: I propose that the Travancore Krishnanvaka Marumakkathayee Bill be taken into consideration by this House. This Bill was sent to the Select Committee and after careful consideration without making any serious changes, the Bill has been sent up to this House and it is now before the honourable members. The Krishnanvaka Marumakkathayees domiciled in Travancore follow the same principles of law as the Nair Community. The Nair Community and the Ezhava Community were also Marumakkathayees. They got their law enacted so early as 1101, while the Krishnanvaka Marumakkathayees had not the fortune of having their law codified. It was thought necessary that they should have the law codified so that the custom relating to their marriage, succession, tharawad management and partition may be regulated. This Bill was published in the Gazette. If there was any objection those objections would have been raised by the members of the community. But no objection was raised by any member belonging to that community. Even now there is no written objection sent up by any member belonging to the Krishnanvaka Marumakkathayees of Travancore and this Bill has been so framed as to follow entirely the principles contained in the Nair Regulation so much so that there can be very little objection to the Bill being passed by this honourable House. Therefore I propose that the Bill may be taken into for consideration.

Mr. Kottur Kunjukrishna Pillai: I second it.

Mr. A. Easwara Pillai (*Nominated*): I oppose and move that the Bill be recommitted to a revised select committee.

President: I see that the honourable member's amendments were sent up only this morning. When were they sent Mr. Secretary?

(The Secretary to the Council then answered that they were sent up quarter of an hour before the meeting).

President: It is rather surprising. How does the honourable member expect other honourable members to be able to deal with those amendments?

Mr. A. Easwara Pillai (*Nominated*): I have my own reasons for doing so.

LIBRARY ARCHIVES Kerala Legislative Assembly

President : Will you tell them ?

Mr. A. Easwara Pillai (*Nominated*) : The rule is that the announcement of the date of the meeting should be communicated to the member concerned at least two weeks before. A formal invitation or notice dated the 28th of June which may be expected to be received by me on the 30th was sent to me. I received a telegram yesterday. Am I expected to send the amendments earlier than yesterday ?

Prsident : When was the announcement about the commencement of this session of the Council published ? Was it not a considerable time back ?

Mr. A. Easwara Pillai (*Nominated*) : The earliest communication about the commencement of the session was sent to me on the 28th which under the Rules of the Legislative Council should have been received two weeks before. The first letter was dated 28th June 1939.

President : When was what may be called the Notification of this meeting issued ?

I am sorry that I was too hard on the honourable member. What I am able to gather from the Secretary is this; that the other members of this House were summoned fairly early. But it appears honourable members nominated for a particular legislation is summoned only when it is certain that that matter would come up for consideration. It is too accute to say that the honourable member got his summons only on the 28th of June. But at the same time I am sorry that I asked for an explanation from the member which is due from the office. But judging from the position of the House I think it is not possible to consider the amendments now. The amendments are as follows :

1. I move that the Travancore Krishnanvaka Marumakkathayee Bill be recommitted.
2. In Chapter I, Clause 1, sub clause (ii) omit the whole expression that occur after the words "not so domiciled".
3. In Chapter II, Clause 3, sub clause (i) omit the word "or" thatioccurs after "A Krishnanvaka Marumakkathayee male" and substitute the words "openly solemnised by the tying of mangalasutram and the presentation of cloth to the female by the male whether so solemnised before the date on which this Bill comes into force or so solemnised subsequent to that date shall be deemed to be a valid marriage for all legal purposes ".

LIBRARY ARCHIVES Kerala Legislative Assembly

4. In Chapter VII, Clause 38, omit the word 'per capita' after the word "division' and substitute the word 'per stirpes'.
5. In Chapter VIII, Clause 43, omit the word 'all' after the words 'on application by' and substitute the words 'the majority of'.

Practically it will become a new Bill if the amendments of which notice has been given by the honourable member are accepted. The only question is whether this House is willing to deal with these amendments now. If the general sense of the House is that it is willing to consider the amendments I have no objection. In view of the fact that the honourable member got notice of the meeting only on the 28th of June, he is entitled to a considerable latitude in sending up amendments and so I cannot rule them out because the mistake is not his but mine or rather that of the office.

Mr. A. Easwara Pillai (*Nominated*): I am not responsible for the delay. I think it will be ridiculous on my part to give such notices on the spur of the moment. I could not help it. So I sent up the amendments early this morning. It would be better if the consideration of the Bill is postponed.

President: The honourable member knows what his amendments are.

Mr. James Fletcher: Sir, I submit that these amendments may be dealt even today itself because these matters were raised in the Select Committee by the honourable member himself and they have been carefully considered even when the Bill ...

President: That is entirely for the House to consider.

Mr Kochikkal P. Balakrishnan Tampi: Sir, I think it may be considered now.

President: I take that it is the general sense of the House to go on with the Bill. Yes the House will now proceed with the Bill.

Mr. A. Easwara Pillai (*Nominated*): Sir my first amendment is that the Bill may be recommitted to a revised Select Committee. Sir, just like.....

Mr. Kottur Kunjukrishna Pillai: Sir, I rise to a point of order.

President: Order, order.

Mr. Kottur Kunjukrishna Pillai: Can a motion for recommittal be considered as an amendment?

President: That is a verbal inexactitude. It is a really substantive amendment and not a motion. The honourable member apparently used the word amendment. He will now proceed.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. A. Easwara Pillai (*Nominated*): Sir, just like the Nair and the Ezhava Regulations and the Nanjinad Vellala Regulation this is a social legislation. Even when the Bill was introduced and considered in this House, I suggested that evidence may be taken since the mover of the Bill himself was a stranger unaware of the social manners and customs existing in the community. Sir, if I am permitted, I may say that the mover of the Bill was quite unaware of the ways of the community. He was, if I remember correct, informing the House that the community numbers a lakh and a half while it is only 1,000 strong.

President: Is the community only 1,000 in strength?

Mr. A. Easwara Pillai (*Nominated*): Yes, Sir. That is the sort of knowlege that the mover of the Bill has about the community. I am sure that this House..... .....

President: Has the honourable member looked up the Census Report? What does that say?

Mr. A. Easwara Pillai (*Nominated*): The latest Census report says that the community including the Makkathayees and the Marumakkathayees number only 12,036. Even then it does not amount to 1 lakh. The Marumakkathayee section forms less than 1/10th of the whole population. That is what I have to say with regard to the knowledge of the mover about the community.

As regards this community I may say that the community is small and backward in point of education, occupying one of the southernmost taluks of Travancore *viz*., Kalkulam. They are agriculturists and backward in education and they are not known as a progressive community.

President: By what name are they known in British India?

Mr. A. Easwara Pillai (*Nominated*): No such community exists in British India though history says that they migrated from Kashmir in the year 1 of our era. It is not clearly known by what name they are known in British India

Mr. M. Govindan: Are they not known as Yadavas?

Mr. A. Easwara Pillai (*Nominated*): They may be known by that name but there are several other sub-groups in that and it it is not known which of those sub-groups form the Krishnanvaka Marumakkathayam community.

Sir, they chiefly occupy the southernmost portion of the taluk of Kalkulam in Travancore. Education among them is considerably poor and they are not considered as a progressive community among the communities I have mentioned before.

Mr. T. Krishna Pillai: May I know from the honourable member whether the educated members of the community have approached the authorities or informed them that they have no objection in passing this Bill?

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Mr. A. Easwara Pillai (*Nominated*) : Some of the educated members might have approached. Some others did not want the bill in the present form.

Mr. T. Krishna Pillai: May I know whether any dissenting voice was raised in this bill?

Mr. A. Easwara Pillai (*Nominated*): Sir, there is a dissenting voice too. During the Select Committee stage I suggested that evidence may be taken since the committee is not so familiar with the customs and manners of the people. They occupy only a single taluk and it is quite possible and easy to take evidence and to understand the views of the community thoroughly and then pass a legislation for them. If, without knowing the sense of the community a social legislation is passed that legislation would be inoperative and objectionable. The sense of the community differs mainly with regard to the question of marriage and partition. The evidence as regards these two important subjects as well as the customs and manners of the community should be known before the Select Committee or the House itself passes a legislation for them. It is for these main reasons.....

President: But did not the honourable member elucidate his point of view then?

Mr. A. Easwara Pillai (*Nominated*): Yes Sir, I suggested even at the outset that evidence should be taken. The members of the Select Committee then said that they would go through the bill and find out those portions for which they should take evidence. So they proceeded with the bill and afterwards concluded by saying that they need not take evidence in spite of my emphatic protest. It was thus that I appended a dissenting note.

Mr. G. Narayana Aiyar: May I know to which community the honourable member belongs?

Mr. A. Easwara Pillai (*Nominated*): I belong to the Krishnanvaka Makkathayee community and I am a nominated member of this House to represent the Marumakkathayees.

For these reasons I move that this Bill may be recommitted to a revised Select Committee composed of the members whom I suggest. They are

Messrs.

James Fletcher,
M. K. Ananthasiva Aiyar,
T. Mohamed Ismail,
Sulthan Mohideen,
Puthupalli S. Krishna Pillai,
M. Govindan,
K. K. Kuruvila,
V. S. Arumukhom Pillai,

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[Mr. A. Easwara Pillai]

Hussain Sait,
Kesava Pillai,
Kesavan,
Mrs. Gnanasikamony, and myself.

Mr. M. K. Ananthasiva Aiyar: I second it.

Mr. James Fletcher: Sir, I oppose the motion. When this bill was published it was known to all the people who were to be affected by it. They were happy to know that such a bill is to be passed. There was then no dissenting voice. As my friend has admitted there are educated men in the community and so far as I know all the educated men fully supported this bill. The reason is not far to seek. These Krishnanvaka Marumakkathayees live in one or two taluks of South Travancore. They follow the customs and manners which the Nayar community follows. Probably they could have been included in the Nayar Regulation. They would be willing to follow the Nayar Regulation as it is, but they wanted to retain their name as Krishnanvaka Marumakkathayees. That is why the Nayar Regulation does not govern the Krishnanvaka Marumakkathayees. Otherwise, it may be said that they simply follow the Nayar Regulation and systems prevalent in the Nayar community. So much so when this Regulation was drafted in the same lines as the Nayar Regulation they were glad that some codified regulation was brought forward to regulate their partition, their tarwad management and so on.

Mr. M. Govindan: If that is so will it not be enough to have one section to the effect that Marumakkathayees in the Krishnanvaka community will be governed by the Nayar Regulation.

Mr. James Fletcher: Sir, as the bill now stands there is not much difference between the Nayar Regulation and the present Bill. But, however, to make a Bill applicable to one community also applicable to another community, these two communities will have to come to an agreement. Further there will be another difficulty. If this Nayar Regulation is slightly modified at the request of the members of that community.....

Mr. M. Govindan: I may assure the honourable member that for making the Nayar Regulation applicable to this community no such things are necessary.

Mr. James Fletcher: The Nayar Regulation can be modified according to the needs of the Nayar community. If the majority of the members of the Nayar community think that they would like to have that Regulation changed then the existing one would be cancelled and a new Regulation might come into effect. Then where will the Krishnanvaka Marumakkathayees stand?

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There will be no act or law so far as they are concerned. If the whole, law is enacted by means of a provision the Nayar Regulation when the Nayar Regulation changes these people will have no law. Therefore I say that such shortcuts as may be suggested by my honourable friend Mr. Govindan may not be satisfactory.

Mr. Kottur Kunjukrishna Pillai: Sir, I also wish to oppose the motion for the recommittal of this bill. The reasons stated by the mover, Mr. Easwara Pillai, for the recommittal is, first of all, that the comuunity is a very small one. It would have been perhaps a good reason to suggest that there is no necessity of a special legislation for such a small section and in fact this objection was raised when this bill was introduced into the House for the first time. And this House has turned down, every time, successively, that objection based on smallness of number. It cannot be said that simply because a community is small in number a very necessary piece of legislation could not be given to them. This House has passed the Kshatriya Bill, although the Kshatriya community is small in number.

There is also another interesting point to be borne in mind in connection with the objection now being raised against the Bill. The objection has not come from the people affected by this legislation. The Krishnanvaka Marumakkathayees has not raised one word of protest against any of the provisions of this Bill; on the other hand, they have always heen insistent in their demand that this Bill should be passed as soon as possible. All this objection has come from the Krishnanvaka Makkathayee people. They may be slightly larger in number than the Krishnanvaka Marumakkathayees; but that is no reason why the Krishnanvaka Marumakkathayees should not be given the benefit of a piece of legislation which they really want.

Mr. A. Easwara Pillai (*Nominated*): May I remind the honourable member that, in this House, I represent the Krishnanvaka Marumakkathayees and not the Krishnavaka Makkathayees.

Mr. Kottur Kunjukrishna Pillai: That may be a very sad irony of fate. But all the same the fact remains that the honourable member is a Krishnanvaka Makkathayee. There is also the other fact that not a single Krishnanvaka Marumakkathayee has expressed his dissent to any of the provisions of this Bill. On the other hand, as I said, they have been persistently requesting that this Bill should be passed as early as possible.

As a matter of fact, these Krishnanvaka Marumakkathayees follow exactly the same customs followed by the Nayar community; that is why they want the same system of law to apply to them. So far as this House is concerned, the right of representation here which was legitimately due to the Krishnanvaka Marumakathayees

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[Mr. Kottur Kunjukrishna Pillai]

has been appropriated by a person belonging to the Krishnanvaka Makkathayee community. On that ground it cannot be argued that we must take all his opinions as the opinion of the Krishnanvaka Marumakkathayee community. I refuse to accept that argument.

Another argument advanced by the honourable member in support of the recommittal of this Bill is that the Select Committee did not allow his proposal for taking evidence. Now, what are the questions on which evidence is to be taken? Is it the question whether the Bill is necessary or not? Is it the question whether the custom in the community is to tie the Mangalyasutram around the bride's neck or to present a cloth to her during the marriage? Sir, these questions are not of fundamental importance for the purpose of taking evidence. The Bill is intended for persons following the Marumakkathaya system of law. Therefore, the only question that has to be considered is whether they should be allowed to continue the Marumakkathaya system without the right for partition or whether they should be conferred that right by legislation. On that question no evidence need be taken; because, with one voice the community wants it. We cannot take any evidence with regard to the details of the marriage ceremony; that will be unnecessary expenditure of money. All are agreed that these persons are Marumakkathayees and that they want a system of inheritence provided for in this Bill. Therefore, there is no need to take any evidence on the matter.

Mr. A. Easwara Pillai (*Nominated*): May I ask whether evidence was not taken before the Nair Regulation, the Ezhava Regulation, the Vellala Regulation and the Kshatriya Regulation were passed?

Mr. Kottur Kunjukrishna Pillai: Yes; but I do not see the relevency of that question now. In the case of those Bills evidence was taken as to what kind of partition the majority of the members of the community concerned wanted; there was clear differences of opinion as to that and such differences of opinion were clearly brought home to the Government and to this House; evidence was taken. The benefit of those enactments is available to the members of the other communities who are following similar customs and who want laws similar to those enactments.

Mr. G. Narayana Aiyar: May I ask whether, in the matter of marriage or inheritence there is any difference between the Nair and the Krishnavaka community?

Mr. Kottur Kunjukrishna Pillai: Absolutely none so far as I can see; hence it is that the present bill is on identical lines with those of the Nair Regulation.

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In any event, Sir, I do not think any case has been made out for the recommittal of the Bill. If the honourable member thinks so, it is quite open to him to oppose this Bill clause by clause ; that is a different matter. That is the straight method for him to adopt. I hope the member will resort to that straight course and not press his present motion for recommital of the Bill.

Mr. Kochikkal P. Balakrishnan Tampi: Sir, I also oppose the motion for recommital of the Bill. I am very glad that my friend Mr. Kottur Kunjukrishna Pillai has advanced very strong arguments against the recommital of the Bill. As he said, Sir, the Select Committee looked into the whole question very carefully. In fact, there was not one member of the Krishnanvaka Marumakkathayee community who opposed any of the provisions of this Bill.

President: Were any memoranda received?

Mr. Kochikkal P. Balakrishnan Tampi: No, Sir.

The select Committee also found that even among the Krishnavaka Makkathayees a considerable number did not oppose the present Bill. I must make it clear, Sir, that there is absolutely nothing in common between the krishnanvaka Makkathayees and Krishnanvaka Marumakkathayees ; it is only a kind of a vicarious love, in the present instance on the part of the Krishnanvaka Makkathayees ; that is all their interest in this piece of legislation at this juncture. As Mr. Fletcher suggested, they could have even been included in the Nair Regulation but for their calling themselves the Krishnanvaka community perhaps with commendable Vaishnavite zeal (laughter). That was how, by a kind of judicial interpretation, they happened to be not included in the Nair Regulation. At a time when the devotees of even the tonsorial art are said to belong to the Nair community, it is really a judicial accident that the members of the Krishnanvaka community are not interpreted as coming within the operation of the Nair Regulation. (laughter)

President: Is the tonsorial appellation still preserved?

Mr. Kochikkal P. Balakrishnan Tampi: They call themselves by the name of the community to which I have the honour to belong. There is as much in common between the Krishnanvaka Makkathayees and the Krishnanvaka Marumakkathayees as perhaps between the Pathan and the Panther.

Sir, in spite of this the honourable member who has been nominated to represent the Krishnanvaka Marumakkathaya people has been jealously trying to cling to the status quo in the matter of this legislation. Some-how his suggestions have not been very helpful. All of them were carefully looked into, The Select

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[Mr. Kochikkal P. Balakrishnan Tampi.]

Committee found, as I have submitted, that there was absolutely no necessity to take any evidence; and the points on which evidence was suggested to be taken were not enumerated by the honourable member. It is therefore in the interest of this house and in the interest of the community concerned that this Bill should be passed as early as possible without any impediment being placed in its way. Marumakkathayee Krishnanvaka people form a small community The members of the Select Committee had occasion to meet some of the members of the community. They were given opportunity on an informal manner to place their views before the Select Committee I really could not understand the real connection between the loyalty of these people and their living in South Travancore, about which specific reference was made by the honourable member. Any how the people concerned want the Bill. There are other communities in the State who have been given a law enabling them to divide their properties in a particular manner. The members of this community also now find that the managers of family-properties are absolutely indifferent to the interests of the families concerned and even allow the properties to be sold at revenue auctions. Hence this Bill. It is timely.

Therefore I appeal to this House once more to pass this into law as early as possible.

Mr. A. Easwara Pillai (*Nominated*) : Sir, my friend Mr. Balakrishnan Tampi was informing the House that the Select Committee gave occasion for some members of the Krishnanvaka Marumakkathayee community to appear before them in an informal manner and give evidence. It was so as regards those who favoured this Bill. But, as regards the opposers, they were not given sufficient opportunity to ventilate their grievances.

Sir, I was informed of the Select Committee only on the day previous to the meeting of the Select Committee, by wire. And I had no time to collect and place before the Committee the necessary material evidence, in support of my position. I should have received at least a week's notice of the Select Committee. On the day previous to the meeting, I received a wire saying that I must be at the Legal Remembrancer's office, on such and such a day at such and such an hour. It was more urgent than a warrant ; and I had to obey it. I hastened from home. My friend Mr. Balakrishnan Tampi informed the members that sufficient opportunity was given to the people concerned. I was not given sufficient opportunity and time. Purposely or otherwise I was informed only on the previous day.

Mr. Kochikkal P. Balakrishnan Tampi: Was that not due to a comedy of errors, owing to the presence of two A. Easwara Pillais in the House ? (Laughter)

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President : But he was not responsible for that

Mr. A. Easwara Pillai : (*Nominated*) Some of the members here have emphatically protested against my existence here ; and I thought the President and the Government, who nominated me to represent the Krishnanvaka Marumakkathayees, would support my cause.

President : The Hon'ble member is there in bodily person to do it ; but far be it from the Government to ignore the existence of the honourable member. (Laughter). All that happened was this, whether it be a comedy or a tragedy of errors. On account of the co-existence of another A. Easwara Pillai, the notice intended for the honourable member went to the other A. Easwara Pillai of Kottarakara ; Fate seems to have conspired against the Hon'ble member (Laughter).

Mr. A. Easwara Pillai (*Nominated*): Let it be a comedy or tragedy of errors, it does not matter ; but it was a disadvantage to the community. It is not fair to argue now that because the members of the community did not appear before the committee that day they were denied the right to give evidence and to have a proper legislation.

Mr. James Fletcher : Will the Hon'ble member inform the House for how many days the Select Committee sat ?

Mr. A. Easwara Pillai (*Nominated*) : I think it sat for two days.

Mr. James Fleteher : No It sat for three days.

Mr. A. Easwara Pillai (*Nominated*) : The third day If I remember right was intended practically for typing the report and affixing our signatures to it.

And besides, the member who has got anything to do with the Krishnanvaka Marumakkathayee community was away at Trivandrum and so was not able to inform the people concerned or to bring them over here.

Mr. Thomas Chandy Mukkadan : മെമ്പറന്മാക്ക് എത്ര ദിവസത്തെ T. A. കൊടുത്തു എന്നറിയാമൊ?

Mr. A. Easwara Pillai (*Nominated*) : മൂന്നു ദിവസത്തേക്കു T. A. കൊടുത്തു So, that argument of Mr. Tampi will not hold good as sufficient notice was not given to the members of the community to appear befor the Select Committee to give evidence formally or informally. As I have suggested, even at the outset, the community is not literate ; the mover is a stranger and that is why they have chosen me to represent their cause in this House.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. Kottur Kunjukrishna Pillai: May I know from the member when the Krishnanvaka Marumakkathayee community chose the member to represent them?

Mr. A. Easwara Pillai (*Nominated*): Sir, I was given to understand that the majority of the Marumakkathayee Krishnanvaka community approached the Dewan with a memorial saying that one member whom they chose might be nominated to represent their community and I was nominated.

Sir, the mover claims to have intimate knowledge of the Krishnanvaka Marumakkathayee community. I shall just inform the House the disparity between his knowledge of the community and actual facts. While the mover says that its population is 1½ lakhs, it is actually 1000 or even less and if the Bill moved by such a person as the honourable member, is accepted by this house I shall not have any objection? Certainly I am not an old man, and I do not profess to know thoroughly the entire history of the community from its origin to this day.

President: The Census report says something about the pre-historic times. So the Hon'ble member may not possibly be himself responsible for that.

Mr. A. Easwara Pillai (*Nominated*): It is after reading that report that I say this; there it is said that they originally came from the north and have peculiar manners and customs.

President: Yes. Muttra.

Mr. A. Easwara Pillai (*Nominated*): My friend Mr Kottur was saying that the mover's objection was that it was because they form only a thousand and they occupy the southernmost part of Travancore that I move for the recommittal of the Bill. Sir, he was mistaken; what I suggested was that it was easy for the Select Committee to go to one taluk and take evidence. When the Nair Regulation was being enacted the Select Committee had occasion to examine witnesses from the northernmost part of Travancore to the southernmost part; Whereas this community exists only in one taluk so that it was quite easy for the Committee to take evidence. The whole enquiry could have been finished within an hour or two. As it is, it looks as though they rushed through the Bill with some particular motive; My point is that no real attention was paid to the existing manners and customs of the community. I found our Legal Remembrancer a little while ago saying that the Nair Regulation differs from the Hindu law as regards customs of marriage, inheritance etc. There is always some defference in these matters between one community and another. As suggested by Mr. Govindan and Mr. Balakrishnan Tampi, if the manners and customs of the Krishnanvaka people are very similar to the Nair Regulation why not then copy the Nair Regulation and

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say that the Nair Regulation itself would apply to the Krishnanvaka Marumakkattayam community also? But that has not been done; the Krishnanvasa Marumakkathayam community has not been included in the Nair Regulation That shows that it is not governed exactly by the same customs as those of the Nairs.

Mr. T. Krishna Pillai: Is the member aware that the enlightened section of the Krishnanvaka community made a request to the Government that suitable amendments could be made in the Nair Regulation itself with a view to extend it to them?

Mr. A. Easwara Pillai (*Nominated*): My own information is that, they wanted an Act with necessary modifications so that it may be acceptable to the community. If the honourable members are carried away by the information and the knowledge the mover has about the community they will be sadly mistaken.

The marriage customs existing in the Nair community are quite different from the existing marriage customs of the Krishnanvaka Marumakkathayam community. I mentioned this to the Select Committee, but they unanimously said that even though there might be defferences, they would not mind because, none from the community came forward to represent and elucidate the point before the Select Committee.

President: What took place at the Select Committee cannot be divulged, the results alone can be referred to here.

Mr. A. Easwara Pillai (*Nominated*): I referred to it because my friend Mr. Balakrishnan Tampi mentioned that certain persons actually gave evidence before the Committee.

President: In so far as the Select Committee either takes evidence or gets persons to appear before it, that cannot be a matter of confidence, because no question of confidence can be raised with regard to third persons coming to the Select Committee, the fact therefore, that certain persons appeared before the Select Committee is not within the rules of non-divulging of proceedings of the Select Committee. What took place among the members of the Select Committee by way of deliberations, arguments and counter-arguments is alone confidential.

Mr. A. Easwara Pillai (*Nominated*): Even then, Sir, I pressed that evidence of that kind need not be taken.

President: Order, order. The member is again doing what he is not allowed to do.

Mr. A Easwara Pillai (*Nominated*): Sir, the Honourable member Mr. Fletcher said that the smallness of the number of members belonging to the community cannot be an argument to show that the Bill is not necessary. My friend Mr. Kottur Kunjukrishna Pillay was saying that because the number was small it,

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[Mr. A. Easwara Pillai.]

was my move that no Bill is necessary. He was entirely wrong; my point is that, because they are also subjects of His Highness the Maharaja they should be given a proper social legislation without considering number.

Sir, my important point for recommitting the Bill, is that our community differs fundamentally in marriage and partition from the Nair community ; and the existing social customs do not permit of such a legislation. If a copy of the Nair Bill is passed, it will not be acceptable to this community. And more than that, as regards marriage in the Nair Regulation, if I remember correct, they have provided for non-Nairs, having marital relations with Nairs also being included in that Regulation ; it would appear that it was a matter of pride to the Nairs to have brought in non-Nairs also within their Bill. It is not so in the case of the Krishnanvaka Marumakkathayam community ; they consider it a stigma.

Mr. V. Sankara Menon (*Nominated*) : What is the basis for the honourable member to say that the Nair community is proud to have marriage alliance with non-Nairs ?

Mr. A. Easwara Pillai (*Nominated*): If it were not so, the Regulations would not have provided like that.

President: Honourable member need not go beyond the four corners of this Bill.

Mr. A. Easwara Pillai (*Nominated*): I am sorry if I have wounded the feelings of any of my friends ; I did not mean it. What I want to make clear is that it is not the custom in the Krishnanvaka Marumakkathaya community to marry from other communities. If any stranger to the community would dare attempt such a marriage, even his life would be in danger ; and the Krishnanvaka people who marry from outside will be ex-communicated. Without knowing the magnitude and the stigma attached with it this House cannot bring in outsiders or strangers to have marital relation with the community.

They considered it with such a sort of stigma.

Mr. Kottur Kunjukrishna Pillai : May I know from the member whether there has been after all any person from outside the community desirous of coming into his community for marriage?

Mr. A. Easwara Pillai (*Nominated*): I do not understand what the member means when he says 'his'. Is it the makkathayam or the marumakkathayam community ?

President : The Bill is dealing with the marumakkathayam community and so all references are to that community.

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Mr. A. Easwara Pillai (*Nominated*): The House will be aware of the amount of stigma or the real position of the community if non Krishnanvaga marumakkathayees are allowed freely to intermarry with the Krishnanvaka community. Unless evidence is taken, unless the Select Committee communicate with the prominent members of the community and become aware of it, they cannot all on a sudden rush to the conclusion and say that because they have not submitted any memoranda to Select Committee there is no opposition. As I suggested, they are not literate. They do not read the gazette or the journals. They are not journalists like some members here to write their opposition in season and out of season. They thought that their position will be safe in the hands of responsible legislators whose President is the trusted minister of His Highness the Maharaja of Travancore.

President: We are now dealing with the working of the Select Committee. The whole question of the Select Committee and whether the Bill should be recommitted to the Select Committee has nothing to do with the confidence entrusted by His Highness the Maharaja to somebody. I think it is really beside the ponit.

Mr. A. Easwara Pillai (*Nominated*): When I said so, I meant nothing but the fact that the Select Committeee did not care to inform the member in charge in time. The members of the community thought that there was a President to take notice of these things because he was the trusted minister of His Highness the Maharaja whose loyal subjects we are. It was only for that purpose that I brought the name of the President or the Dewan in this House. With these words, I request the honourable members of the House to consider the question of just taking evidence and ascertaining the views of a few prominent members of the community at least before they pass any law for them.

The question that the Bill be recommitted was put to vote and the motion was declared lost.

Clause 1.

Mr. A. Easwara Pillai: Sir, I move that—

"In Charter I, Clause 1, sub-clause (ii) omit the whole expression that occurs after the words 'not so domiciled.' "

President: But then, does the word "such" remain? How will the clause read as amended by the honourable member?

Mr. A. Easwara Pillai (*Nominated*): The clause as it is reads thus:

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[Mr. A. Easwara Pillai.]

"It shall apply to all Krishnanvaka Marumakkathayees domiciled in Travancore and to such Krishnanvaka-Marumakkathayees, not so domiciled, and non Krishnanvaka-Marumakkathayees, whether so domiciled or not, as have, or shall have, marital relation with Krishnanvaka-Marumakkathayees domiciled in Travancore."

By adopting my amendment the clause would read thus:

"It shall apply to all Krishnanvaka-Marumakkathayees domiciled in Travancore and to such Krishnanvaka-Marumakkathayees not so domiciled."

My object in moving this amendment is that, as I have said, hs clearly prevents non-Krishnanvaka-Marumakkathayees coming into the community.

President: Order order. I am not here trying to force any particular opinion on the honourable member but the clause as amended will read something like this.

"It shall apply to all Krishnanvaka-Marumakkathayees domiciled in Travancore and to Krishnanvaka-Marumakkathayees, not so domiciled."

Even assuming that the word "such" is omitted.

Is that what the honourable member wants?

Mr. A. Easwara Pillai (*Nominated*): What I meant is that it shall apply to all Krishnanvaka-Marumakkathayees and to none else.

Mr. Puthupally S. Krishna Pillai: He says that it is *intra dig* for a non-Krishnanvaka-Marumamakkathayee to marry into the community. His intention will be carried out if only the words "and non-Krishnanvaka-Marumakkathayees, whether so domiciled or not" alone are deleted.

President: After all, the Legal Remembrancer is not moving an amendment.

Mr. Puthupally S. Krishna Pillai: Otherwise, the amendment of Mr. Easwara Pillai is not in form and cannot be discussed because it conveys no meaning.

President: The honourable member must put in some legal form.

Mr. A. Easwara Pillai (*Nominated*): With regard to the application of this Bill what I suggest is that it should apply only to Krishnanvaka-Marumakkathayees and not to non-Krishnanvaka-Marumakkathayees. Here in the clause as it stands it is stated "and non-Krishnanvaka-Marumakkathayees, whether so domiciled or not, as have or shall have marital relation with Krishnanvaka-Marumakkathayees domiciled in Travancore." That means that non-Krishnanvaka-Marumakkathayees could have marital relation with Krishnanvaka-Makkathayees.

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President: The amendment which the honourable member has given notice of does not bring out what the honourable member wants. The honourable member has apparently some difficulty with regard to this amendment. The House will now adjourn and by the time the House re-assembles he may make some progress with his amendment. It must be moved in some definite legal form.

The Council adjourned for lunch at 12-55 and met again at 2 P. M.

Mr. C. N. Thuppan Namboodiripad: സർ, ഈ കൌൺസിലിൽ അവതരിപ്പിക്കുന്ന ബില്ലുകളുടെ കാപ്പി മലയാളത്തിൽ ഞങ്ങൾക്കു കിട്ടുന്നുണ്ട്. ആ ബില്ലുകളെ സംബന്ധിച്ച ഭേദഗതികളോ അല്ലെങ്കിൽ അതുപോലെ അതിപ്രധാനമായ മറ്റുചില കടലാസുകളോ മലയാളത്തിൽ തർജ്ജിമചെയ്തു കിട്ടാതെയാണിരിക്കുന്നത്. ഇങ്ങനെ മലയാളത്തിൽ തർജ്ജിമചെയ്തു കിട്ടാത്തതുകൊണ്ടു ഞങ്ങൾ വളരെബുദ്ധിമുട്ടുന്നുണ്ട്. ഇവിടെ ഒരു ട്രാൻസ്ലേഷൻ ഡിപ്പാർട്ടുമെൻറും മലയാളം ടൈപ്പ്റൈറ്റിംഗും ഉള്ള സ്ഥിതിക്ക് ഈ കൌൺസിലിൻെറ ആലോചനയ്ക്കു വരുന്ന സകല സംഗതികളും മലയാളത്തിൽ തർജ്ജിമചെയ്തു ഞങ്ങൾക്കു തരാൻ അത്ര പ്രയാസമുള്ളതല്ല. മലയാളതർജ്ജിമകിട്ടിയാൽ കാര്യം മനസ്സിലാക്കാൻ നിവൃത്തിയില്ലാത്തതുകൊണ്ട് വോട്ടചെയ്യേണ്ടി വരുമ്പോൾ വിശ്വാസമുള്ളവരാരെങ്കിലും കൈപൊക്കുന്നതുകണ്ടു കൈപൊക്കുന്നു എന്നല്ലാതെ കാര്യം മനസ്സിലാക്കി പ്രവർത്തിക്കാൻ വഴിയില്ലാതിരിക്കുന്നു. അതുകൊണ്ട് ഇവയെല്ലാം മലയാളത്തിൽ കാപ്പിതരാൻ വേണ്ട ഏർപ്പാടുചെയ്യണമെന്നു ഞാൻ അഭിപ്രായപ്പെട്ടുകൊള്ളുന്നു.

President: There is considerable force in what the member has said just now and I think steps should be taken in future, to have the amendments translated into Malayalam and if possible communicated to the honourable members, because a certain day is insisted upon for the receipt of amendments and an interim period is available for the Government for communicating such information to the members.

Of course, this honourable member's very legitimate and forcible observations do not apply to the Krishnanvaka-Marumakkathayam Bill, because, the amendments to this Bill were received this morning. So, there was not enough time for the translators and shorthand writers to do the needful in the matter.

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Mr. A. Easwara Pillai (*Nominated*): I move the following amendment.

"In Chapter 1, Clause 1, sub-clause 2 omit the expression that occur after the word 'not so domiciled' till 'so domiciled or not'.

If my amendment is carried the clause would read thus :—

"It shall apply to all Krishnanvaka Marumakkathayees domiciled in Travancore and to such Krishnanvaka Marumakkathayees, not so domiciled, as have, or shall have marital relation with Krishnanvaka Marumakkathayees domiciled in Travancore."

In moving this amendment my desire is to inform the House that since non-Krishnanvaka-Marumakkathayees have nothing to do with the Krishnanvaka-Marumakkathayees, this Bill should not be made applicable to them. There are communities in Travancore where non-members of the community have some marital or other relationship with the community. Since this community does not permit of having marital relationship with any other community, such a clause is unnecessary. Hence the expression 'and non-Krishnanvaka Marumakkathayees whether so domiciled or not' should be omitted.

The amendment fell through for want of a seconder.

The question that clause 1 do stand part of the Bill was then put and carried.

The clause was added to the Bill.

Clause 2.

The question that clause 2 do form part of the Bill was then put to vote and carried.

The clause was added to the Bill.

Clause 3.

Mr. A. Easwara Pillai (*Nominated*): Sir, I move the following amendment.

"In Chapter II, clause 3, sub-clause (i) omit the word 'or' that occurs after 'a Krishnanvaka Marumakkathayee male' and substitute the words 'openly solemnised by the tying of mangalyasutram and the presentation of cloth to the female by the male whether so solemnised before the date on which this Bill comes into force or so solemnised subsequent to that date shall be deemed to be a valid marriage for all legal purposes."

With the amendment the clause would read as follows :

"The conjugal union of a Krishnanvaka Marumakkathayee female, subject to the restrictions of consanguinity and affinity with:—

(i) A Krishnanvaka Marumakkathayee male openly solemnised by the tying of mangalyasutram and the presentation of cloth to the female by the male whether so solemnised before the date.....for all legal purposes."

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Sir, I want to retain the proviso in that clause. My object is that even now the tying of mangalyasutram is a prominent item in a marriage ceremoney. In the Krishnanvaka community, no marriage takes place without the tying of mangalyasutram. As such I don't find the reason why the prominent feature of the marriage should be avoided indication by the presentation of cloth alone as in the case of the Nair Community alone be retained. Why should the provisions of the Nair Regulation be copied so far as marriage is concerned when the custom is entirely different.

President: Is it the member's contention that any marriage that takes place in the community according to the usual custom, whether it be by presentation of cloth or by *thali kettu*, should be made legal?

Mr. A. Easwara Pillai (*Nominated*): Yes, Sir. That is my object.

President: If the custom of marriage in the community is by presentation of cloth, that should be legalised. If it is by the tying of thali, that also should be recognised. Is that the position of the member?

Mr. A. Easwara Pillai (*Nominated*): Yes Sir. Both the customs are prevalent. But the tying of mangalyasutram must be given prominence.

Mr. K. K. Kuruvila: Is not the tying of mangalyasutram a common factor in all marriages?

Mr. A. Easwara Pillai (*Nominated*): I wish so and it is so.

Mr. K. K. Kuruvila: I am not concerned with the honorable member's wish. May I know whether the tying of thali is not a common factor in all marriages?

Mr. A. Easwara Pillai (*Nominated*): That is the custom, more or less. Even now that custom is being followed. If so could not that procedure be legalised, just as the presentation of cloth is legalised among the Nairs.

Mr. Kottur Kunjukrishna Pillai: May I know whether the member wants that marriages in which there is no tying of mangalyasutram but only the presentation of cloth, that is to be made invalid?

Mr. A. Easwara Pillai (*Nominated*): Quite so. Because, the prominent item in the marriage ceremony is the tying of mangalyasutram.

President: It seems to me that these amendments would give rise to controversy which to a large extent is unnecessary. Because in the first place it is said "any male other than a Krishnanvaka,

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[President]

Marumakkathayee with whom conjugal union is permitted according to recognised social custom and usage....." Therefore, in cases where there is no doubt or controversy as to whether mangalyasutram or thali is necessary or whether the presentation of cloth alone is necessary to show what the social custom or usage is, if honourable members could realise that, it is unnecessary to go into the dispute to decide whether mangalyasutram is the *sine-qua-non* or the presentation of cloth is the *sine-qua-non*. Would it not be possible for members representing varied points of view to come to some agreement on this matter? I can understand your speaking about the recognised social custom or usage. It is better to stop there. What is the harm in omitting both the customs from the provisions of the Bill? I am rather anxious to avoid controversies on matters on which no controversy is needed. Or, where the tying of mangalyasutram is the custom that may be recognised and where the presentation of cloth is the custom, that too may be recognised. What does the Legal Remembrancer say on the matter?

Mr. Puthupally S. Krishna Pillai: According to the existing provision it would appear that presentation of cloth alone is recognised as the custom denoting marriage.

President: Supposing the words "openly solemnised by the presentation of cloth to the female by the male" are omitted in that clause, what is the difficulty then?

Mr. Puthupally S. Krishna Pillai: That means the section does not prescribe any mode. That will have to be found out.

Mr. A. Easwara Pillai (*Nominated*): It is why I said, at the beginning, that evidence is necessary.

Mr. M. Govindan: May I put in a word. The objection pointed out by the Legal Remembrancer can be got over by the introduction of the 'social custom and usage' in the first line of clause 3. It should read "the conjugal union of a Krishnanvaka Marumakkathayee female solemnised according to custom and usage....."

Mr. A. Easwara Pillai (*Nominated*): I have no objection to adopt that suggestion.

Mr. Kallur Narayana Pillai: സർ, മറുപടിപ്രസംഗത്തിനു മുൻപായി എനിക്കൊരു സംശയം പ്രസ്താവിക്കാനുണ്ട്. ഒരു മരുമക്കത്തായസമുദായത്തിൽമംഗല്യസൂത്രം ധരിപ്പിക്കുന്നതിനു ആ സമുദായത്തിൽപ്പെട്ട ആളുതന്നെ വരനായി വരണം. അല്ലാതെ ഇതരസമുദായത്തിൽ

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പ്പെട്ട പുരുഷന്മാർ വിവാഹം കഴിക്കുമ്പോൾ മംഗല്യസൂത്രം ധരിപ്പിക്കുവാൻ നിവൃത്തിയില്ല. നായർ സമുദായത്തിൽ ബ്രാഹ്മണർ വിവാഹം ചെയ്യാറുണ്ട്; മംഗല്യസൂത്രം ധരിപ്പിക്കാറില്ല. വസ്ത്രമാണ് കൊടുക്കുന്നത്. അതു പോലെതന്നെ കൃഷ്ണൻവക മരുമക്കത്തായി സമുദായത്തിലും ബ്രാഹ്മണർ വിവാഹം ചെയ്യാറുണ്ട്. അവർക്കാകട്ടെ മംഗല്യസൂത്രം ധരിപ്പിക്കാൻ നിവൃത്തിയില്ലാത്തതുകൊണ്ടാണ് വസ്ത്രം കൊടുക്കുന്ന ചടങ്ങു വച്ചിട്ടുള്ളത്. കന്യകാത്വം നീങ്ങുന്നതിന് പണ്ട് താലികെട്ടുന്ന ഒരേർപ്പാട് നായർസമുദായത്തിൽ ഉണ്ടായിരുന്നു. എന്നാൽ അയാൾ ആ സ്ത്രീയുടെ ഭർത്താവല്ല. ഭർത്താവു മുണ്ടുകൊടുക്കുന്നതുമാണ്. അതുകൊണ്ട് മരുമക്കത്തായി സമുദായങ്ങളിൽ വസ്ത്രം കൊടുക്കുന്നതാണ് വിവാഹത്തിനുള്ള പ്രധാന ചടങ്ങ്. അതുതന്നെ ഇവിടെയും സ്വീകരിക്കണം.

Mr. V. S. Arumukhom Pillai : May I know whether the member is aware that tying of *thali* is more important is South Travancore ?

President : There is complete diversion of opinion on the main feature.

Mr. Kallur Narayana Pillai: വസ്ത്രദാനമാണ് അതിപ്രധാനമായ ചടങ്ങ് എന്നാണ് ഞാൻ പറയുന്നത്.

Mr. Kochikkal P. Balakrishnan Tampi : The presentation of the cloth should be retained because we want some concrete evidence as to the factum of the marriage ; whether it has been solemnised or not, when we come to a Court of Law. So there is no harm in this custom being given legislative sanction.

Mr. Kottur Kunjukrishna Pillai: I wish to say one or two words regarding this matter. As I have been able to understand the custom in the community, the custom that is universally adopted is the presentation of cloth. But in certain cases tying of the *thali* is also accompanied along with the presentation of cloth. So what we should do is not to object to either of these customs. But there must be a clear test as to the marriage that takes place. It would not be denied even by the mover of the amendment that there is any marriage in the community in which there is not the presentation of cloth. Presentation of cloth is the compulsory items. But in certain cases the *mangalyasutram* is also introduced. That is the case with certain Nair marriages also. My friend Mr. Kallur Narayana Pillai has made it plain that it is a secondary thing so far as Marumakkathayees are concerned. The provision in the bill seeks to conserve the prevailing universal custom. That is all. There can be no reasonable objection for that.

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Mr. James Fletcher: As my friends have clearly stated, the presentation of cloth is the most important item in solemnising a marriage among the Marumakkathayees.

Mr. V. S. Arumukham Pillai: Is it the case with Vellalas.

Mr. James Fletcher: That may not be. That is not the question before us at present. So far as the Nairs are concerned, the presentation of the cloth is the most important item. This law does not prohibit the tying of the *thali*. Tying of the *thali* if so desired, may be had. The presentation of the cloth is the most important item and the Bill provides for it. This Section is not different from the Section we have in the Nair Regulation of 1101. All that my friend has said is that he wishes the tying of the *thali* to be retained in law. My submission is that there is no need for keeping that as a provision in the Bill.

Mr. A. Easwara Pillai: It is not my wish. It is my wish to retain the custom among the community.

Mr. James Fletcher: There is no prohibition to retain that custom if so desired. They may or may not have it. As Mr. Kallur Narayana Pillai has said, when members from other communities marry one marumakkathaye lady, the question arises whether he would care to have the tying of the *thali*. He may like to have the presentation of the cloth alone. Therefore the presentation of the cloth alone may be made very prominent or given more importance while the other may be left to the discretion of the party and it may not be made part of the law.

Mr. A. Easwara Pillai (*Nominated*): Sir, my object in moving this amendment was to give prominence to the custom.

Mr. T. Krishna Pillai: The amendment is not seconded.

President: Is it so ? Now that the discussion has proceeded so far, I allow it.

Mr. A. Easwara Pillai (*Nominated*): My object was to see that legislation is passed in conformity with the custom obtaining in the community. No doubt, it is a change that is found in a progressive community as the Nair. The fate of the Krishnanvaka community is left to the care and mercy of this House and it depends upon the unanimous opinion of this House. Let them take their lot. Even after such a legislation is passed, they may retain their original custom or not there is nothing to prevent them. Just like the other amendments, this is an important one which the community will not tolerate. But the House is free to give its considered opinion. The question whether the non-Krishnanvaka marumakkathayam community members marry freely, whether they will accept this clause or whether it becomes a dead letter or whether it comes into force; all these things remain to be seen.

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President : It is generally conceded that marriage involves more than one person.

Mr. Easwara Pillai (*Nominated*) : In the first place, such a custom is obtaining in the community and besides among communities where the marumakkathayam law prevails, such a custom as the wearing of *Mangaliyasutram* during the ceremony of the marriage is prevalent. There are prominent communities wherein such a custom is prevalent and, I think, since it is obtaining in the community, it may be followed. It has a place among Ezhavas and their Regulation provides for the same.

Mr. Kallur Narayana Pillai : ഈഴവസമുദായത്തിൽപ്പെട്ട സ്ത്രീകളെ അന്യസമുദായത്തിൽപെട്ട പുരുഷന്മാർ വിവാഹം ചെയ്യാറില്ലെന്നറിയാമോ?

Mr A Easwara Pillai : തെക്കൻതിരുവിതാംകൂറിലുള്ള ഈഴവസമുദായത്തിൽപ്പെട്ട സ്ത്രീകളെ അന്യസമുദായത്തിലെ പുരുഷന്മാർ വിവാഹം ചെയ്യുന്നതായി എനിക്കറിയാം.

Mr. A. Easwara Pillai (*Nominated*): There are the Nanjinad Vellalas who follow the marumakkathayam law and the wearing of the *mangaliyasutram* is prominent. We live side by side with the Nanjinad Vellalas though not so much with the Nairs and the Ezhavas. We follow the custom obtaining among the communities close by. So I press my amendment that the wearing of the *mangaliyasutram* also should be made a prominent item in the ceremony of marriage.

The amendment was put to vote and lost.

The question that Clause 3 do form part of the Bill was put and carried.

The Clause was added to the Bill.

Clauses 4 to 37.

The question that Clauses 4 to 37 do form part of the Bill was pu and carried.

The Clauses were added to the Bill.

Clause 38.

Mr. A. Easwara Pillai (*Nominated*) : My fourth amendment is that in Chapter VII, clause 38—Omit the word 'per capita' after the word 'division' and substitute the word 'per stirpes'. The Clause as amended would read thus:—

> "Any individual of Thavazhee mentioned in Sections 34 and 37 shall be entitled to so much of the tarwad properties as will fall to such individual or to the members of such Thavazhee as a whole if a division per stirpes were made among all the members of the tarwad at the time of partition."

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[Mr. A. Easwara Pillai.]

The two important questions with regard to this social legislation which the community wants is that no drastic changes should be made with regard to marriage and partition. There is no family among the Krishnanvakas where partition has not taken place. (Mr. Kochikal P. Balakrishnan Tampi; *Hear, hear*) They have divided their properties on the per stirpes basis according to the custom of the community existing from very olden times. Per capita division, as I observed during the discussion on the previous amendment is made in the Nair Regulation because they wanted to adopt the per capita division and they introduced the same in the Regulation. Because this Bill was moved originally by a member of that community he wanted the same custom to be followed. As the decision now stands per stirpes division will be more acceptable to the community and not the per capita division. Sir, my friends who opposed this amendment or the mover of this Bill objected to it saying that the advanced view of legislations in other communities is that per capita division is more advantageous or modern.

That may be their view. But in a community where education is not so much advanced, when the community still retains the old customs and manners, when they still lag behind in many social reforms, it is only natural that they want to retain the old customs and manners without being freely interfered by the legislators. This "per capita" division in some of the communities have brought about ruin to societies and it has destroyed the solidarity of many families. Such a thing, I fear, would creep in into this community if the "per capita" division is followed.

Mr. Kallur Narayana Pillai : കുണ്ണംവക മക്കത്തായികളുടെ യിടയിലും ഇങ്ങനെയാണോ നടപ്പ്?

Mr. A. Easwara Pillai (*Nominated*): മക്കവഴിക്കാരായ കുണ്ണംവകക്കാർ ഹിന്ദുലാ അനുസരിക്കുന്നവരാണ്.

Mr. Kallur Narayana Pillai : അവരിൽ പുരുഷന്മാർക്ക് സ്വത്തവകാശമുണ്ടോ?

Mr. A. Easwara Pillai (*Nominated*): പുരുഷന്മാർക്ക് സ്വത്തവകാശമുള്ളൂ. സ്ത്രീകൾക്കില്ല.

Therefore, I move this amendment and request the members of the House to be alive to the situation and to see that "per stripes" division which the community follows may be retained.

Mr. M. K. Ananthasiva Aiyar : Sir, I second it.

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Mr. James Fletcher: Sir, with reference to this amendment I wish to say that both the Nair and the Ezhava communities have had legislation on this matter. In both these legislations we have the "per capita" division and not the " per stirpes" division.

Secondly, I may also point out the great injustice that would be brought about if " per stirpes " division is followed. Sir, a family consisting of two members, two *thavazhies* may be taken into consideration. One of them, let us suppose, is a lady and she may have twenty-five members in her sub-family through her and the other member of the family may have only one son. If the division be as per stirpes twenty-five persons of the sub-family will get one half and one man of the other will get the other half. That will be an unjust division. If there is division there should be equal division to all the members of the family. Therefore, to say that we should go back to the system of division by *Thavazhi* or " per stirpes " will be most unreasonable and I therefore oppose the amendment.

Mr. A. Easwara Pillai (*Nominated*) : A word in reply Sir. The argument advanced by the mover of the bill against this amendment was that if there are two *Thavazhies* of which one has twenty-five members, then the division should be not into two but into twenty six. Sir, a few minutes ago, unfortunately I listened to the discussions on the Bequest to Unborn Persons Bill on the floor of this House. I heard the President and some honourable members arguing " why not the grandson also be introduced—something like that" I was listening to.

Mr. Kochikkal P. Balakrishnan Tampi: Sir, on a point of order. Is it parliamentry form to bring in the name of the President ?

President : The honourable member evidently did not refer to the President as the President did not, according to the honourable member "Introduce" the grandson. (*Laughter*)

Mr. A. Easwara Pillai (*Nominated*): Sir, I pointed it out simply to bring in and explain my point of view without causing aspersious on the President or other honourable members. It would appear that Legislators begin to test the capacity of the persons, as it were to produce children. It amounts to something like that.

President : In other words, the honourable member would have this form of compensation.

Mr. A. Easwara Pillai (*Nominated*): Naturally the two members mentioned by the mover cannot be twins.

President: Order, order. I don't think that this honourable House is the proper chorum to discuss the capacity of the people to produce. (*Laughter*)

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Mr. A. Easwara Pillai (*Nominated*): Sir, with regard to division of the property of a Tarwad, the discussion may bring in such details.

Mr. M. Govindan: May I know whether in the suits for maintenance, the total yield and the number of persons is calculated or the "per stirpes" division is made?

Mr. A. Easwara Pillai (*Nominated*,): Maintenance is calculated on the "per stirpes" division. In the family referred to one of the members of the family will be the junior member, because he was born sometime hence, his share is reduced considerably. Many communities where Hindu Law is followed, do not give credit to the superiority of children. I don't find any reason why in this Bill concerning the Krishnanvaka Marumakkathayees, this preference should be shown. There may be arguments to say that in the Nair community it is followed. Yes. But that is not sufficient reason to say why this small community should also follow the same principle. The mover of the Bill in his arguments could not say anything against the practice obtaining in the community at present. He simply says that because in the one there are more members all should be given equal division. I don't find any reason why "per stirpes" division obtaining in the community should be revised.

The question that in Chapter VII clause 38, the word "per capita" after the word "division" be omitted and the word "per stirpes" substituted was put to vote and declared lost. The question that clause 38 stand part of the Bill was put and carried.

Clause 38 was added to the Bill.

Clauses 39 to 42.

The question that clauses 39 to 42 stand part of the Bill was put and carried.

Clauses 39 to 42 were added to the Bill.

Clause 43.

Mr. A. Easwara Pillai (*Nominated*): Sir, my fifth amendment is regarding clause 43. The clause as it is reads thus: "The Government may, by notification in the Government Gazette exempt any tarwad from the provisions of Chapter VII, within six months from the commencement of this Act on an application by all the major members of the tarwad, and may, at any time, by a like notification or no application by the majority of major members of the tarwad rescind such declaration.

President: 'No' is a misprint.

Mr. Puthupalli S. Krishna Pillai: Yes.

Mr. A. Easwara Pillai (*Nominated*): Sir, my amendment is, "In Chapter VIII clause 43, omit the word 'all' after the words 'on application by' and substitute the words 'the majority of'. If my amendment is accepted the clause would read thus :—

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"The Government may by Notification in the Government Gazette exempt any tarwad from the provision of Chapter VII, within six months from the commencement of this Act on an application by the majority of the major members of the tarwad" etc.

Sir, I don't find any reason why, for obtaining the sanction also, all the majority of the major members is necessary. If my amendment is accepted then all the major members of that family are not necessary for applying for exemption. It will be enough if the majority of the major members apply for exemption. The clause itself without my amendment looks rather awkward and therefore I move that such an amendment may be accepted by this House.

President: Is it seconded ?

Mr. James Fletcher: As the clause now stands, I have no objection to the substitution of "a majority of the major members" in the place of "all" and I thank my friend, Mr. Easwara Pillai, for helping the passing of the Bill with such ease.

President: You have not come to that stage, yet.

The amendment was put to vote and carried. The question that clause 43 as amended do form part of the Bill, was put to vote and carried.

Clauses 44 and 45.

The question that clauses 44 and 45 do form part of the Bill was put to vote and carried.

Preamble and Title.

The question that the Preamble and Title do stand part of the Bill was put to vote and carried.

The Preamble and Title were added to the Bill.

Mr. James Fletcher: Sir, I move that the Bill be passed.

Mr. Kottur Kunjukrishna Pillai: I second it.

Mr. A. Easwara Pillai (*Nominated*): I was trying to inform the House that I met with several tragedies here. (*Laughter*). Even according to the mover of the Bill, no member of the community is present in the House ; therefore opportunity may be given to the members of the community to give their evidence either before the Select Committee or to a Sub-committee of the Select Committee. When I suggested that course at the general discussion of the Bill in this House it was said that it would be considered at the Select Committee; but the Select Committee did not have the courage to inform the members of the community. Neither do they know anything about the community.

Mr. Kochikal P. Balakrishnan Tampi: Sir, that is a reflection on the Select Committee.

President: Absence of legislative courage is not unparliamentary (*Laughter*)

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Mr. A Easwara Pillai (*Nominated*): With sufficient courage the members of the Select Committee rushed through the Bill (*laughter*). They informed some of their party men purposebly to be present at the Select Committee shutting out others or other evidence from coming in. We did not expect that from the legislators in the Select Committee,

Mr. Kochikal P. Balakrishnan Tampi: Sir, that is a reflection on the members of the Select Committee; he is attributing motives to them

President: Honourable member is apparently now addressing himself to the final task of postponing the third reading of the Bill, and what he has got to say reflects only on the manner in which the proceedings were conducted. So long as the honourable member confines himself to a description that this House is pusillanimous, or lacking in initiative or drive in legislative matter and does not attribute motive, he will be in order.

Mr. A. Easwara Pillai (*Nominated*): Surely I do not attribute motive to the honourable members. I simply state facts as they are; perhaps I should get the courage to hide some facts.

President: Honourable member will make up his mind whether to place the facts or to hide them (*laughter*) and having made up his choice, and wandering within the ambit laid down by the Chair, the honourable member may proceed.

Mr. A. Easwara Pillai (*Nominated*): I shall state the facts Sir. As far as this Bill, this unfortunate Bill is concerned, the member nominated for the purpose of this Bill was not informed of the Select Committee meeting, sufficiently early as required by the Council rules, of which I am not expected to know as much as the Legal Remembrancer who thought it fit not to inform me in time, but to take me by surprise by a wire, just a day previous to the meeting of the Select Committee.

President: The Legal Remembrancer will please explain the circumstances, if any, under which the mistake arose.

Mr. Puthupally S. Krishna Pillai: In the report of the proceedings relating to the constitution of the Select Committee, it was not specifically mentioned "A. Easwara Pillai, Kalkulam"; it was merely stated "A Easwara Pillai". Therefore when the letters were issued, the name of the Post Office happened to be put in as Kottarakara instead of Kalkulam.

President: In other words, the Legal Remembrancer admits that there was a mistake?

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Mr. Puthupally S. Krishna Pillai : Yes, Sir, but it was rectified sufficiently early; for a wire was sent to the honourable member and he did hurry from Kalkulam ; only he was not able to bring with him a handful of men to support him. That was not expected nor was summons issued to the members of Krishnanvaka Marumakkathayam community.

In this connection, I may be permitted to make another statement about the member's repeated observation that the Krishnanvaka Marumakkathayam community has not been consulted.

President : Honourable member has no right of speech at this stage.

Mr .A. Easwara Pillai (*Nominated*) : The Legal Remembrancer says that a wire was sent by him ; I have already made mention of that. Anyhow the mistake is there. The honourable member now makes another mistake also in speaking of "Post Office", when he really means Anchal office (*Laughter*). Mr. Easwara Pillai of Kottarakara was in the Council, even before I was nominated. Sir, there was a time when both of us were members of the Assembly also, and then I suggested to the Secretary that for safety's sake, to avoid tragedy or comedy of errors, I may be addressed as A. Easwara Pillai, Kalkulam and my other friend as A. Easwara Pillai, Kottarakara; and, if I remember right, the Secretary noted that down and said there was no further trouble.

Because I was not given sufficient notice of the meeting of the Select Committee, I was not able to arm myself properly with the necessary materials to defend myself against the attacks of the other members of the Select Committee The mover himself asked me several questions, which I answered ; and after gathering information from me, he now says it is not a fact. And again, at the second reading the old mistake of the Anchal office was repeated. Again I was not able to study the question properly nor to move the amendments.

One honourable member was remarking that he was not able to understand the proceedings here because they take place in English, he knows only Malayalam. At least that member would have supported me had the deliberations been in Malayalam.

All these calamities go together and this unfortunate Bill have to be borne by the dumb thousands who are affected by this measure.

Therefore, I move that at least the third reading of the Bill be postponed to the next session so that sufficient opportunity may be given to the members of the community to know the real situation and see if there is any remedy possible under the circumstances.

The question that further consideration of the Bill be postponed was put to vote and lost,

The motion that the Bill be passed was put to vote and carried

The Bill was passed.

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